

REMARKS

Claims 1, 4-6, 8-10, 12-14 and 16-18 have been amended. New claims 19-24 have been added. Thus, claims 1 and 3-24 are now pending in the present application. Support for the claim amendments and new claims may be found in the original claims and throughout the specification. Thus, no new matter has been added.

Response to and Traversal of Restriction Requirement

In the Restriction Requirement mailed March 17, 2009, the Examiner restricted the pending claims into two Groups:

- I. Claims 1-8, drawn to a method of detection.
- II. Claims 9-18, drawn to a product (array and kit).

In response to the Restriction Requirement, Applicants hereby elect Group I (Claims 1-8), with traverse. Claims 1-8 are readable upon the elected Group.

The Examiner alleged that Inventions I and II do not relate to a single general inventive concept under PCT Rule 13.1, because under PCT Rule 13.2, they lack the same or corresponding special technical features based on the alleged teaching of Nakamura et al. (2002) relating to amplification of TNF- α . Because claim 1 as amended no longer recites TNF- α , the Nakamura et al. reference cannot be used to allege that Inventions I and II do not relate to a single general inventive concept.

In fact, all of the claims do contain a corresponding or special technical feature in relation to the detection of an I/D genotype of an ACE gene, a (z-2) genotype of an ALR2 gene 5'-(CA) repeats, and a C106T genotype of an ALR2 gene in the promoter region. Thus, all of the claims do relate to a single general inventive concept, and reconsideration and withdrawal of the Restriction Requirement with respect to Inventions I and II are respectfully requested.

Gene/Sequence Restriction

The Examiner also set forth gene/sequence restriction subgroups at pages 4-5 of the Restriction Requirement. Claims 1, 9 and 13 as amended recite detection of all three of the following polymorphic sequences: an I/D genotype of an ACE gene, a (z-2) genotype of an ALR2 gene 5'-(CA) repeats, and a C106T genotype of an ALR2 gene in the promoter region. Thus, the method no longer recites these polymorphic sequences as a Markush group, but instead

recites detection of all three polymorphic sequences. Thus, election of a single polymorphic sequence is no longer relevant. Accordingly, withdrawal of the restriction requirement as it applies to the polymorphic gene is respectfully requested. Nevertheless, in the interest of completeness, Applicants elect invention (vi) directed to a (z-2) genotype of an ALR2 gene 5'-(CA) repeats. All pending claims read on this elected species.

The Examiner indicated that "a complement thereof" was a separate invention as invention (ix). To the extent an election between complement and non-complement is necessary, Applicants elect the non-complement, i.e. "an I/D genotype of an ACE gene, a (z-2) genotype of an ALR2 gene 5'-(CA) repeats, and a C106T genotype of an ALR2 gene in the promoter region."

With regard to the genes recited for amplification by PCR in Claims 4 and 17, the claim has been amended to recite both ACE and ALR2 genes. Thus, election of a single gene to be amplified by PCR is no longer applicable to these claims. Accordingly, withdrawal of the restriction requirement as it applies to a single gene to be amplified is respectfully requested. Nevertheless, for completeness, Applicants elect invention (xii) directed to the ALR2 gene.

Claims 5 and 18 as amended recites three pairs of primers. SEQ ID NOS: 1 and 2 are used to amplify the I/D genotype of the ACE gene. SEQ ID NOS. 7 and 8 are used to amplify the (z-2) genotype of the ALR2 gene, and SEQ ID NOS. 9 and 10 are used to amplify the C106T genotype of the ALR2 gene in the promoter region. Since all three pairs of primers are recited in this claim (not within a Markush group), election of a single pair of primers is not required since the claimed method requires all three pairs. Accordingly, withdrawal of the restriction requirement as it applies to the specific single pair of primers is respectfully requested. Nevertheless, for completeness, Applicants elect SEQ ID NOS. 7 and 8 used to amplify the (z-2) genotype of the ALR2 gene. To the extent an election of a primer pair for the other genotypes recited in these claims is necessary, Applicants elect the sequences recited in the claims, i.e. SEQ ID NOS: 1 and 2 used to amplify the I/D genotype of the ACE gene, and SEQ ID NOS. 9 and 10 used to amplify the C106T genotype of the ALR2 gene in the promoter region.

Election of Species

The Examiner alleged that the application contained claims directed to more than one species, and required election of a particular patient population as listed on page 3 of the Restriction Requirement. Claim 1 as amended recites a single patient population, namely one at

risk for developing a nephropathy. Consistent with this amendment of the claims, Applicants elect species (ii) directed to a method for detecting a diabetic subject of Chinese descent at risk for developing a nephropathy.

CONCLUSION

In light of the amendments, traversals and elections made herein, examination of all pending claims is respectfully requested. Should the Examiner identify any impediments to the prompt examination of the full scope of these claims, the Examiner is invited to contact the undersigned at the telephone number appearing below.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 5/15/09

By: 

Neil S. Bartfeld, Ph.D.
Registration No. 39,901
Agent of Record
Customer No. 20,995
(619) 235-8550